

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

19-CV-01157-EAW

THE PREMISES AND REAL PROPERTY WITH
ALL BUILDINGS, APPURTENANCES, AND
IMPROVEMENTS, LOCATED AT 7405
MORGAN ROAD, LIVERPOOL, NEW YORK, *et*
al.,

Defendants.

**SECOND STIPULATION TO EXTEND CLAIMANTS' TIME
TO FILE CLAIM AND ANSWER IN THE CIVIL FORFEITURE ACTION**

WHEREAS, on August 28, 2019, the United States of America filed an action *in rem* for the forfeiture of the Real Properties as set forth in a civil complaint for forfeiture in the above-referenced action. (Docket No. 1);

WHEREAS, counsel for claimants Morgan Brookwood DE, LLC, Morgan Rivers Pointe LLC, Morgan Clay Apartments II LLC, Preserve At Autumn Ridge I LLC, Preserve At Autumn Ridge II LLC, RR Oaks Holdings LP, Morgan 7100 South LLC, Colonial Gardens, L.P., Colonial Crossings Investments, L.P., Creek Hill Apartments LLC, Chili Townhomes 246 LLC, Morgan Hickory Hollow LLC, Knollwood Associates LLC, and Hidden Creek DE, LLC (collectively, the "Claimants") contacted the government to seek an extension of time to file a Claim and Answer in the civil forfeiture action due to ongoing discussions regarding the real properties listed above and other related matters;

WHEREAS, in light of ongoing discussions regarding the real properties listed above and related matters, the plaintiff United States of America may file an Amended Civil Complaint for Forfeiture in this action;

WHEREAS, in order for discussions with respect to the aforementioned real properties to continue to progress and/or conclude, and for an orderly schedule of pleadings, good cause exists to extend the deadline for the filing of a verified Claim and response to the Civil Complaint for Forfeiture;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT, by and between the plaintiff United States of America, by its attorneys, James P. Kennedy, Jr., United States Attorney for the Western District of New York, and Mary Clare Kane, Assistant United States Attorney, of counsel, and Mark Cohen and Jeffrey Lang, counsel for the Claimants, that:

1. Due to the complexity of ongoing discussions and negotiations pertaining to the real properties below and other related matters, and the intention of the United States of America to file an Amended Civil Complaint for Forfeiture in this action, the parties agree that there is good cause to extend the above-referenced Claimants' time to file a Claim and response to the Civil Complaint for Forfeiture against the real properties listed below, as required by Title 18, United States Code, Section 983(a)(4)(A), 983(a)(4)(B) and Rule G(5)(a) and Rule G(5)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, to the date 60 days after the United States of America either: (i) files an amended civil complaint for forfeiture or; (ii) provides notice that it does not intend to file an amended civil

complaint for forfeiture. The parties further agree that all time elapsed thus far since the filing of the civil complaint for forfeiture is tolled.

2. The real properties named in the civil complaint for forfeiture to which the above claimants may have an interest are known as follows, and respectively, are more fully described in sub-paragraphs 1(a) through 1(m), of the civil judicial forfeiture complaint, Docket No. 1, incorporated herein by reference.

- a. Brookwood On The Green Apartments (Morgan Brookwood DE, LLC);
- b. Rivers Pointe Phase I (Morgan Rivers Pointe LLC);
- c. Rivers Pointe Phase II (Morgan Clay Apartments II DE, LLC);
- d. Preserve At Autumn Ridge I (Preserve At Autumn Ridge I LLC);
- e. Preserve At Autumn Ridge II (Preserve at Autumn Ridge II LLC);
- f. Nineteen North (RR Oaks Holdings LP);
- g. 7100 South Shore Drive Apartments (Morgan 7100 South, LLC);
- h. The View at Mackenzi (Colonial Gardens, L.P. and Colonial Crossings Investments, L.P.);
- i. Creek Hill Apartments (Creek Hill Apartments LLC);
- j. Union Square Apartments Phase 1 (Chili Townhomes 246 LLC);
- k. Hickory Hollow (Morgan Hickory Hollow LLC);
- l. Knollwood Manor Apartments (Knollwood Associates LLC);
- m. Penbrooke Meadows (Hidden Creek DE, LLC);

3. Nothing in this Stipulation confers automatic standing on any Claimant nor shall it limit the right of the United States of America to present any and all of its arguments

in favor of civil forfeiture to the Court during the pendency of the civil forfeiture action, including, but not limited to, whether a party has proper standing in this litigation.

4. Nothing in this Stipulation shall limit any party, any other Claimant or any other potential claimant's right to file a verified claim and answer with respect to the above-referenced real properties or putting forth any argument with respect to standing.

DATED: December 23, 2019.

<p>JAMES P. KENNEDY, JR. United States Attorney Western District of New York</p> <p><i>/s/ Mary Clare Kane</i> MARY CLARE KANE Assistant United States Attorney 138 Delaware Avenue Buffalo, NY 14202 716-843-5809 mary.kane@usdoj.gov</p> <p><i>Counsel for United States of America</i></p>	<p><i>/s/ Mark S. Cohen</i> MARK S. COHEN JEFFREY I. LANG COHEN & GRESSER, LLP 800 Third Avenue New York, NY 10022 212-957-7600 mcohen@cohengresser.com. jlang@cohengresser.com</p> <p><i>Counsel for Claimants</i></p>
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SO ORDERED.

ELIZABETH A. WOLFORD
U.S. DISTRICT COURT JUDGE
Rochester, New York
December , 2019